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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-69**

13 **BETTY L. KLEBANOFF,**  
**a.k.a. BETTY LYNN GUMERINGER,**  
**a.k.a. BETTY LYNN KLEBANOFF**

**A C C U S A T I O N**

14 1886 W. Redfield Road  
Gilbert, AZ 85233

15  
16 Registered Nurse License No. 372872

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),  
23 Department of Consumer Affairs.

24 2. On or about June 30, 1984, the Board issued Registered Nurse License Number  
25 372872 to Betty L. Klebanoff, also known as Betty Lynn Gumeringer and Betty Lynn Klebanoff  
26 (Respondent). Respondent's registered nurse license was in full force and effect at all times  
27 relevant to the charges brought herein and will expire on December 31, 2011, unless renewed.

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## STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

5. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof . . .

6. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

1 7. Code section 490, subdivision (a), states:

2 In addition to any other action that a board is permitted to take against a  
3 licensee, a board may suspend or revoke a license on the ground that the licensee  
4 has been convicted of a crime, if the crime is substantially related to the  
5 qualifications, functions, or duties of the business or profession for which the  
6 license was issued.

7 8. Code section 4022 states:

9 "Dangerous drug" or "dangerous device" means any drug or device unsafe for  
10 self-use in humans or animals, and includes the following:

11 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing  
12 without prescription," "Rx only," or words of similar import.

13 (b) Any device that bears the statement: "Caution: federal law restricts this  
14 device to sale by or on the order of a -----," "Rx only," or words of similar import,  
15 the blank to be filled in with the designation of the practitioner licensed to use or  
16 order use of the device.

17 (c) Any other drug or device that by federal or state law can be lawfully  
18 dispensed only on prescription or furnished pursuant to Section 4006.

### 19 COST RECOVERY

20 9. Code section 125.3 provides, in pertinent part, that the Board may request the  
21 administrative law judge to direct a licensee found to have committed a violation or violations of  
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
23 enforcement of the case.

### 24 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS AT ISSUE

25 10. "Adderall," an Amphetamine indicated for the treatment of Attention Deficit  
26 Hyperactivity Disorder and Narcolepsy, is a Schedule II controlled substance as designated by  
27 Health and Safety Code section 11055, subdivision (d)(1).

28 11. "Fioricet," a brand of Butalbital, is a dangerous drug within the meaning of Code  
section 4022 in that it requires a prescription under federal law. Each tablet contains 50 mg  
Butalbital, 325 mg Acetaminophen, and 40 mg Caffeine.

12. "Hydromorphone" is a Schedule II controlled substance as designated by Health  
and Safety Code section 11055, subdivision (b)(1)(K).

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13. **"Meprobamate"** is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(18).

14. **"Morphine"** is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M).

15. **"Soma,"** a brand of Carisoprodol, is a dangerous drug within the meaning of Code section 4022 in that it requires a prescription under federal law.

16. "Zoloft," a brand of Sertraline Hydrochloride, is a dangerous drug within the meaning of Code section 4022 in that it requires a prescription under federal law.

**FIRST CAUSE FOR DISCIPLINE**

**(Criminal Conviction)**

17. Respondent is subject to disciplinary action pursuant to Code sections 2761, subdivision (f), and 490, subdivision (a), in that on or about December 21, 2009, in the criminal proceeding titled *State of Arizona v. Betty Lynn Klebanoff* (Muni. Ct. City of Mesa, 2009, Case No. 2009048236), Respondent pled guilty to violating ARS § 28-1381A1 (driving under the influence), a Class 1 misdemeanor. Said crime is substantially related to the qualifications, functions, and duties of a Registered Nurse.

a. The circumstances of the crime are as follows: On or about July 8, 2009, an officer with the Mesa Police Department responded to Baseline and Alma School Roads in Mesa, Arizona, after receiving a report of a non-injury, rear-end collision. At the scene, Respondent stated to the officer that she was not paying attention. Respondent slurred her words when she answered the officer's question if she realized that she had hit another vehicle. A second responding officer spoke with Respondent and observed that she had bloodshot watery eyes, slurred speech, and a flushed face. As Respondent exited her vehicle, the second officer observed that she had bloodshot/watery eyes, stumbled when she walked, swayed from side to side/front to back, and had slow, slurred speech, and constricted pupils. The officer conducted field sobriety tests and determined that Respondent was under the influence of drugs. Respondent told the officers that she had taken 2 Soma pills in the morning, 2 Zoloft pills 3 to 4 hours prior, 2 Adderall pills (one in the morning and one in the afternoon just before she left the house), and a

1 Fiorcet pill at about noon. Respondent also stated that she had fallen asleep when she hit the  
2 other vehicle. Later, Respondent submitted blood and urines samples for drug testing. Her  
3 samples tested positive for Carisoprodol, Amphetamine, Hydromorphone, Meprobamate, and  
4 Morphine.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Use of Controlled Substances and Dangerous Drugs to an Extent**  
7 **or in a Manner Dangerous or Injurious to Oneself and Others)**

8 18. Respondent is subject to disciplinary action pursuant to Code section 2761,  
9 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
10 subdivision (b), in that on or about July 8, 2009, Respondent used controlled substances and  
11 dangerous drugs to an extent or in a manner dangerous or injurious to herself and others, as set  
12 forth in paragraph 17.a, above.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Conviction Related to the Self-Administration of**  
15 **Controlled Substances and Dangerous Drugs)**

16 19. Respondent is subject to disciplinary action pursuant to Code section 2761,  
17 subdivision (a), on the grounds of unprofessional conduct, as defined by Code section 2762,  
18 subdivision (c), in that on or about December 21, 2009, Respondent was convicted of a criminal  
19 offense involving the use or self-administration of controlled substances and dangerous drugs, as  
20 set forth in paragraphs 17 and 17.a, above.

21 **PRAYER**

22 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
23 and that following the hearing, the Board of Registered Nursing issue a decision:


24 1. Revoking or suspending Registered Nurse License Number 372872, issued to Betty  
25 L. Klebanoff, also known as Betty Lynn Gumeringer and Betty Lynn Klebanoff;

26 2. Ordering Betty L. Klebanoff, also known as Betty Lynn Gumeringer and Betty Lynn  
27 Klebanoff, to pay the Board of Registered Nursing the reasonable costs of the investigation and  
28 enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

7/26/10

  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*